IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

WP(C).No. 8834 of 2007(B)

PETITIONER:

CEELIA ANTONY, MANAGING PARTNER,
M/S.CARGO CLEAR INTERNATIONL, ERNAKULAM WARF,
WILLINGDON ISLAND, COCHIN-682 003.

BY ADV. SRI.P.A.AUGUSTIAN
SRI.V.K.SATHYANATHAN

RESPONDENTS:

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1. THE COMMISSIONER OF CUSTOMS,
CUSTOM HOUSE, WILLINGTON ISLAND, KOCHI- 682 009.

2. SMT.JAYAPATHI SHYAMALANGAN,
POOMANGALATHU HOUSE, WAGHAYIL ROAD,
MARADU, KOCHI-682 304.

R1 BY ASG SRI.JOHN VARGHESE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 15/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Thottathil B. Radhakrishnan, J.

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W.P.(C)No.8834 of 2007

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Dated this the 15th day of March, 2007.

JUDGMENT

Heard the learned counsel for the petitioner and the learned Assistant Solicitor General.

2. The second respondent, in spite of repeated requests, could not clear CHA examination under Regulation 9 of Customs House Agents Licensing Regulation, 2004 (CHALR). This resulted in the petitioner requiring yet another person to be appointed. Ext.P12 made by the petitioner to the Assistant Commissioner of Customs (I & B) does not show that the petitioner has pointed out any particular person to be appointed in lieu of the second respondent. However, it is urged now that Smt.Sreekala A.V., who, going by Ext.P14, was then working with M/s.Cargo Clear International is to be appointed as its employee with the concurrence of the first respondent. Since Ext.P12 does not disclose any such fact referable to the said Sreekala, it would be inappropriate for

this Court to come to any conclusion that the impugned decision of the first respondent is wrong because that decision was rendered exclusively with referance to the fact situation touching the second respondent. I am also not impressed by the submission that the impugned order was issued without hearing the petitioner because the petitioner does not even have a case, even before the second respondent was qualified.

In the aforesaid circumstances, this writ petition is disposed of directing that if the petitioner makes appropriate application before the first respondent showing a competent person, who can be appointed in terms of law and if the concurrence of such person is also disclosed before the Commissioner in accordance with law, such request shall be considered and the first respondent will pass appropriate orders at the earliest in accordance with law, at any rate, within a period of two weeks from the date of receipt of a copy of this judgment.

Thottathil B.Radhakrishnan,
Judge.

sl.